

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lauren Kerstein	Team: Squad #7	CCRB Case #: 201406811	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 07/04/2014 9:00 PM	Location of Incident: 1314 Nelson Avenue	Precinct: 44	18 Mo. SOL 1/4/2016	EO SOL 1/4/2016	
Date/Time CV Reported Sun, 07/06/2014 2:11 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 07/06/2014 2:13 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Ramos	12164	946704	044 PCT
2. POM Jawuan Hubbard	08746	949121	044 PCT
3. POM Sean Brown	24894	948704	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Sean Brown	Abuse: PO Sean Brown frisked § 87(2)(b)	
B.POM Jose Ramos	Abuse: PO Jose Ramos searched the car in which § 87(2)(b) was an occupant.	
§ 87(4-b), § 87(2)(g)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On July 4, 2014, at approximately 9 p.m., § 87(2)(b) double parked his car in front of 1314 Nelson Avenue in the Bronx and waited for his friend, § 87(2)(b) who lives in the building. Soon after, an unmarked police vehicle containing PO Jose Ramos, PO Sean Brown and PO Jawuan Hubbard pulled behind him with its lights activated.

PO Brown approached § 87(2)(b) on the driver's side of the vehicle and asked him if he had been smoking, which § 87(2)(b) denied. During this time, PO Ramos was on the passenger side and PO Hubbard stood at the rear of the vehicle. § 87(2)(b) was asked to step out of the vehicle. PO Brown instructed § 87(2)(b) to face the car and PO Brown patted down both sides of § 87(2)(b)'s legs (**Allegation A**). Simultaneously, PO Ramos searched the driver's side, passenger side, glove box, center console and in the backseat of § 87(2)(b)'s car (**Allegation B**).

After PO Ramos finished searching § 87(2)(b)'s vehicle, the officers left without issuing him a summons.

Video Footage

- The video provided to the investigation was recorded by § 87(2)(b) and is one minute and forty-four seconds long (encl. E1). Within the video, PO Ramos can be seen entering the front and back passenger sides of § 87(2)(b)'s vehicle as well as the front driver's side.

Witness Statements

- After providing a phone statement on October 3, 2014, § 87(2)(b) never sent back his verification form to the CCRB (encl. O1-O10).

Mediation, Civil and Criminal Histories

§ 87(2)(b) has not filed a Notice of Claim in regard to this incident (encl. M1). § 87(2)(b) rejected mediation during his in-person interview at the CCRB. § 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) (encl. B4).
- PO Hubbard and PO Brown have been members of the service for four years and PO Ramos has been a member of the service for six years (encl. B1-B3). PO Brown has had four complaints filed against him and PO Ramos has had seven. The salient points of those complaints have been summarized below (encl. S1-S7):
 - In CCRB# 201201897, the investigation determined that PO Brown lacked reasonable suspicion to stop a civilian or suspect that he was armed. The Board substantiated the stop and frisk allegations and recommended charges. The NYPD instituted command discipline.
 - In CCRB# 201014287, the investigation determined that PO Ramos unjustly stopped a civilian. The Board recommended charges and PO Ramos was ultimately given instructions by the NYPD.

Findings and Recommendations

Allegations Not Pled

- **Stop:** A vehicle stop allegation has not been pled since § 87(2)(b) acknowledged that his vehicle had window tints (encl. F2-F8).

Identification of Subject Officers

- PO Brown acknowledged frisking § 87(2)(b). Therefore, a frisk allegation has been pled against PO Brown.
- After viewing the video footage, PO Brown identified PO Ramos as the officer searching inside § 87(2)(b)'s vehicle. Therefore, a vehicle search allegation has been pled against PO Ramos (encl. H1-H7).

Officers Not Interviewed

- PO Ramos was unable to be interviewed because he is currently on extended military leave and is not expected to return to the NYPD until November 2015 (encl. O10).

Allegation A: Abuse of Authority – PO Sean Brown frisked § 87(2)(b)

It is undisputed that PO Brown frisked § 87(2)(b)

As § 87(2)(b) stood up to exit his vehicle, PO Brown noticed a bulge in one of § 87(2)(b)'s pants pockets, though he could not recall which pocket. PO Brown could not describe the bulge but noted that it could have been a gun, a knife or brass knuckles. Believing that it could have been a weapon, PO Brown felt unsafe and therefore frisked all of § 87(2)(b)'s pants pockets (encl. H1-H7).

A Stop and Frisk Report was not prepared in regards to this incident (encl. J6).

In order to frisk an individual, an officer must have reasonable suspicion that he is in danger by virtue of the individual being armed. The location of a bulge is remarkable, because unlike a pocket bulge which could be caused by any number of innocuous objects, a waistband bulge is a telltale sign of a weapon. People v. DeBour, 40 N.Y.2d 210 (1976) (encl. A1-A11). Furthermore, a frisk may not be predicated merely upon the observation of an undefinable bulge. People v. Marine, N.Y.S 2d 425 (1989) (encl. A15-A17).

§ 87(2)(b), § 87(2)(g)

A17).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation B: Abuse of Authority – PO Ramos searched the car in which § 87(2)(b) was an occupant.

It is undisputed that PO Ramos searched § 87(2)(b)'s vehicle. The video footage recorded by § 87(2)(b) shows PO Ramos entering § 87(2)(b)'s vehicle multiple times (encl. E1) and in his phone statements, § 87(2)(b) stated that he saw PO Ramos searching the areas around both the

PO Brown testified that when § 87(2)(b) rolled down his driver's side window at the beginning of the interaction, he smelled a strong odor of marijuana emanating from § 87(2)(b)'s vehicle (encl. H1-H7). PO Hubbard could not recall if he smelled marijuana (encl. I4-I5). § 87(2)(b) and § 87(2)(b) denied that marijuana was emanating from § 87(2)(b)'s vehicle with § 87(2)(b) countering that § 87(2)(b) does not smoke marijuana. § 87(2)(b), § 87(2)(g)

Reviewer: _____
Title/Signature Print Date